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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/539,282      | 06/16/2005  | Roger Lahille        | 434299-729          | 2637             |

46188 7590 08/14/2009

Nixon Peabody LLP  
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Palo Alto, CA 94306

EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 08/14/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 3663

MPEP 706.07 (h) states:

"35 U.S.C. 132(b) provides for continued examination of an application at the request of the applicant (request for continued examination or RCE) upon payment of a fee, without requiring the applicant to file a continuing application under 37 CFR 1.53(b). To implement the RCE practice, 37 CFR 1.114 provides a procedure under which an applicant may obtain continued examination of an application in which prosecution is closed (e.g., the application is under final rejection or a notice of allowance) by filing a submission and paying a specified fee. Applicants cannot file an RCE to obtain continued examination on the basis of claims that are independent and distinct from the claims previously claimed and examined as a matter of right (i.e., applicant cannot switch inventions). See 37 CFR 1.145."

1. The application was filed under 35 U.S.C. 371.

On 4/17/08, applicant elected for examination, the subcombination of a "fastening device." The amended claims presented for examination in the instant RCE are now directed to the combination of a "housing and fastening device."

Contrary to the above MPEP requirement, applicant has switched inventions such that the new claims are independent and distinct from the previously examined claims.

The combination/subcombination lack unity of invention (and therefore the associated claims are independent and distinct) because the subcombination claims do not avoid the prior art, as demonstrated in the 4/10/09 Office action. See Appendix A1 (Administrative Instructions Under the PCT), Annex B (Unity of Invention), section (c).

2. If applicant desires to have the combination claims examined, this may be accomplished by filing a continuation-in-part application.

Art Unit: 3663

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rick Palabrica whose telephone number is 571-272-6880. The examiner can normally be reached on 6:00-4:30, Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Rick Palabrica/  
Primary Examiner, Art Unit 3663 August 11, 2009

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